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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/777,114	02/13/2004	Dennis Wayne Rice	103864.133 US3	4980

28089 7590 11/02/2004

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EXAMINER

DESAI, HEMANT

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/777,114	Applicant(s) RICE ET AL.	
	Examiner Hemant M Desai	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/13/04</u> <u>8/4/18/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lasher et al. (5771657) and Wilson (6435370) and further in view of Pearson (5292029).

Lasher et al. disclose a storage apparatus (buffer conveyor 113, fig. 8) having plurality of storage locations (slot 115, fig. 8), a computer system (see col. 12, lines 31-33) configured to instruct one or more bottles belonging to an order and feed them to one or more of the plurality of storage locations (in slot 115, fig. 8), and computer system is further configured to control the position of storage locations (115) from close position (when the slots 115 are not aligned with the conveyor 118, fig. 8) to an open position (when the slots 115 are aligned with the conveyor 118) when all of the one or more bottles belonging to the order has been fed to the one or more of the plurality of storage locations (see col. 12, lines 24-65).

Lasher et al. however, do not disclose the storage mechanism having plurality of tubes having stoppage mechanism disposed on the bottom side having an open position and a closed position. However, Wilson teaches a tube having stoppage mechanism (slider 50, fig. 2) disposed on the bottom side having an open position and a

closed position (see col. 3, lines 59-67; col. 4, lines 1-5) for plurality of storage and dispensing locations, used in storage and dispensing of various medical elements (see col. 2, lines 25-29) which is reliable and fast but also inexpensive to manufacture and maintain (see col. 1, lines 35-39). Also Lasher et al. teach that in the overall system, each individual tube is activated by a central computer-program based controller, which will dispense one or more packages (bottles) for a particular prescription (see col. 2, lines 47-56). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the storage system of Lasher et al. with the storage system of Wilson which is reliable and fast but also inexpensive to manufacture and maintain.

Lasher et al., as mentioned above, disclose the claimed invention except that robotic arm (79, fig. 7) to pick up and load the bottles belonging to an order (see col. 9, lines 30-38) instead of a gantry mechanism. McDonald et al. teach that robotic arm in an equivalent structure known in the art (see col. 9, lines 59-63). Therefore, because these two elements were art-recognized equivalents at the time the invention was made, one of ordinary skill would have found it obvious to substitute the robotic arm for the gantry mechanism.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M Desai whose telephone number is (703) 308-5830. The examiner can normally be reached on 7:00 AM-5:30 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hemant M Desai
Examiner
Art Unit 3721

HMD



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700